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FCC Mailroom

April 4, 2017

By Overnight Delivery

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

Re: WT Docket No. 16-421 Streamlining Deployment of Small Cell Infrastructure

Dear Secretary Dortch:

I am Village Attorney for the Inc. Village of Laurel Hollow (hereinafter the "Village"). The Village is located on Long Island in downstate New York. The purpose of this letter is to address the references to the Village by Crown Castle on page 13 of its submission to the Federal Communications Commission (hereinafter "FCC") regarding the above-referenced matter.

Crown Castle refers to the Village as follows in its submission:

"The Village of Laurel Hollow requires a \$3,000 escrow fee per small cell node and an application fee of \$900 for new poles and \$650 for collocated facilities on existing poles. In addition, the Village charges an annual fee of \$500 per municipal pole and a percentage revenue share."

The above statements are simply untrue. Article XII of the Laurel Hollow Village Code is entitled Wireless Telecommunications Facilities. That article was added to the Laurel Hollow Village Code on December 9, 2004 by virtue of Local Law No. 8-2004 (hereinafter the "local law"). The local law complies with applicable Federal Law regarding wireless telecommunications facilities in all respects.

Essentially, the local law requires that applicants seeking approvals for wireless telecommunications facilities as defined therein must apply to the Village Board of Trustees for a special use permit. Further, the local law sets forth application fees and the establishment of an escrow account regarding consultants' fees.

In late 2015, representatives of Crown Castle contacted the Village to discuss its proposal to install twenty-six (26) wireless communications nodes on public rights-of-way within the Village. During 2016, representatives of the Village spoke with and met with representatives of Crown Castle regarding the proposal.

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By letter dated November 9, 2016, Crown Castle, through its legal counsel, submitted a request to the Village that it "waive and/or reduce to a reasonable amount the escrow and application fees in connection with Crown Castle's proposal to install 26 wireless communications nodes in the public right-of-way in the Village in accordance with Section 145-36.30 of the Village Code." Thereafter, this office had numerous telephone conversations with counsel for Crown Castle as well as correspondence in that regard.

On February 8, 2017, representatives of Crown Castle, including legal counsel, appeared at a public meeting of the Village Board of Trustees. The issue of Crown Castle's request for waiver/reduction of fees and escrows was discussed at that meeting. At the conclusion of the Board's discussion of this matter, which included input from Crown Castle's representatives, the Board set forth fees and escrows in connection with the contemplated Crown Castle application as follows:

- \$3,000 escrow per proposed Distributed Antenna System ("DAS") node in connection with the twenty-six (26) nodes proposed, with escrows to be replenished to the original amount at such time as any sums held in escrow fall below 50% of the original required amount, and
- \$900 application fee per node for each new utility pole contemplated, and
- \$650 application fee per node where an existing utility pole is proposed to be utilized.

The escrows and fees set forth above were established with the express consent and agreement of Crown Castle and its representatives at the meeting and in subsequent email communications. As noted above, Crown Castle's submission to the FCC states:

"The Village of Laurel Hollow requires a \$3,000 escrow fee per small cell node and an application fee of \$900 for new poles and \$650 for collocated facilities on existing poles."

Firstly, the escrow is not a "fee". It is an escrow account in connection with fees of consultants retained by the Village in connection with Crown Castle's application. This is legal, appropriate and authorized by the local law. Secondly, the fee and escrow account structure was expressly agreed to by Crown Castle after consultation with the Village Board. It was, in no manner, imposed upon Crown Castle by the Village.

Crown Castle also states in its submission to the FCC that "[i]n addition, the Village charges an annual fee of \$500 per municipal pole and a percentage revenue share." This statement is simply

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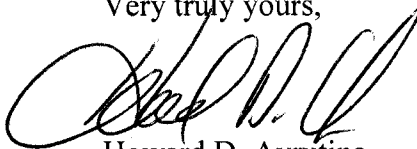
false. No such requirements are set forth within the local law. Further, there is no Right-Of-Way Use Agreement between Crown Castle and the Village. Issues of annual fees for municipal poles and revenue for use of rights-of-way are typically addressed by virtue of such an agreement.

The Village has dealt with Crown Castle in a fair and legal manner throughout this entire process. Therefore, the Village strenuously objects to the characterizations regarding the Village set forth in Crown Castle's submission in the above-referenced matter.

It should also be noted that Crown Castle made previous submissions to the Village in 2005 and 2009 which it ultimately chose not to pursue. In connection with those submissions, Crown Castle owed the Village the sum of \$4,934.74 which, despite numerous demands for payment, had not been paid. Crown Castle finally paid this sum in January 2017 upon demand of the Village that Crown Castle do so prior to filing any applications in connection with the current proposal.

The Village appreciates this opportunity to be heard in connection with the above-referenced matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Howard D. Avrutine', written in a cursive style.

Howard D. Avrutine

HDA/cr

cc: Daniel F. DeVita, Mayor
Inc. Village Laurel Hollow
Karen A. Navin, RMC, Village Clerk/Treasurer
Inc. Village of Laurel Hollow